

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

The court has received plaintiff's Notice of Voluntary Dismissal of Defendant Kellogg Sales Company With Prejudice Pursuant to FRCP 41(a)(1)(A)(i), filed on April 18, 2014. Because defendant has filed an Answer to plaintiff's Complaint in the form of a Motion to Dismiss, the court will construe plaintiff's filing as a Motion to Dismiss the Complaint pursuant to Federal Rule of Civil Procedure 41(a)(2).

1 grant a voluntary dismissal under Rule 41(a)(2) is addressed to the sound discretion of the District  
2 Court[.]”). Under the circumstances, the court is persuaded that defendant will not suffer any legal  
3 prejudice by the dismissal of the Complaint with prejudice. See id. (“In ruling on a motion for  
4 voluntary dismissal, the District Court must consider whether the defendant will suffer some plain  
5 legal prejudice as a result of the dismissal.”); Waller v. Financial Corp. of Am., 828 F.2d 579, 583  
6 (9th Cir. 1987) (“In this circuit, as elsewhere, a district court should grant a motion for voluntary  
7 dismissal unless a defendant can show that it will suffer some plain legal prejudice as a result.”).

8 Based on the foregoing, IT IS ORDERED THAT:

9 1. Plaintiff’s Notice of Voluntary Dismissal With Prejudice (**Document No. 22**) shall be  
10 **construed** as plaintiff’s Motion to Dismiss the Complaint pursuant to Federal Rule of Civil  
11 Procedure 41(a)(2). Plaintiff’s motion is **granted**.

12 2. Judgment shall be entered dismissing the action with prejudice.

13 3. The Clerk shall serve copies of this Order and the Judgment on all parties.

14 Dated this 21st day of April, 2014.

15 /s/

16 Fernando M. Olguin  
17 United States District Judge  
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